

RULES OF PRACTICE of the STATE BOARD OF EQUALIZATION

California Code of Regulations Title 18. Public Revenues
Division 2. State Board of Equalization
Chapter 10. Petition and Hearing Procedures

ARTICLE 2. BUSINESS TAXES AND TIMBER YIELD TAX

5020. DEFINITIONS; BOARD HEARING PROCEDURES; TAXES AFFECTED BY THIS ARTICLE.

(a) The definitions in Article 7, Regulation 5070 shall apply to this Article, and Board hearings on petitions and claims filed pursuant to this Article shall be conducted pursuant to the hearing procedures set forth in Article 7, commencing with Regulation 5070.

(b) This Article applies to petitions for redetermination (other than petitions and applications for administrative hearings pertaining to jeopardy determinations, which are subject to Article 3, beginning with Regulation 5030) and claims for refund under the following programs:

Alcoholic Beverage Tax

California Constitution Article XX, Section 22;
Revenue and Taxation Code Sections 32001-32557

~~Ballast Water Management Fee~~

~~Public Resources Code Sections 71200-71271;~~

~~Revenue and Taxation Code Sections 44000-44008, 55001-55381~~

California Tire Fee

Public Resources Code Sections 42860-42895;

Revenue and Taxation Code Sections 55001-55381

Childhood Lead Poisoning Prevention Fee

Health and Safety Code Section 105310;
Revenue and Taxation Code Sections 43001-43651

Cigarette and Tobacco Products Tax

California Constitution Article XIII B;
Revenue and Taxation Code Sections 30001-30481

Diesel Fuel Tax

Revenue and Taxation Code Sections 60001-60709

Emergency Telephone Users Surcharge

Revenue and Taxation Code Sections 41001-41176

Energy Resources Surcharge

Revenue and Taxation Code Sections 40001-40216

Hazardous Substances Tax

Revenue and Taxation Code Sections 43001-43651

Insurance Tax

California Constitution Article XIII, Section 28;
Revenue and Taxation Code Sections 12001-13170

Integrated Waste Management Fee

Revenue and Taxation Code Sections 45001-45984

Marine Invasive Species Fee Collection Law

Public Resources Code Sections 71200-71271;

Revenue and Taxation Code Sections 44000-44008, 55001-55381

Motor Vehicle Fuel ~~License~~ Tax

California Constitution Article XIX;

Revenue and Taxation Code Sections 7301-~~8405~~ 8526

Natural Gas Surcharge

Public Utilities Code Sections 890-900;
Revenue and Taxation Code Sections 55001-55381

Occupational Lead Poisoning Prevention Fee

Health and Safety Code Section 105190;
Revenue and Taxation Code Sections 43001-43651

Oil Spill Response, Prevention, and Administration Fees

Revenue and Taxation Code Sections 46001-46751

Sales and Use Tax

(including State-administered local sales, transactions, and use taxes)
Revenue and Taxation Code Sections 6001-7279.6

Timber Yield Tax

Revenue and Taxation Code Sections 423.5, 431-437, 38101-38908

~~Tire Recycling Fee~~

~~Public Resources Code Sections 42860-42895;~~

~~Revenue and Taxation Code Sections 55001-55381~~

Underground Storage Tank Maintenance Fee

Revenue and Taxation Code Sections 50101-50162

Use Fuel Tax

Revenue and Taxation Code Sections 8601-9355

(c) To the extent that regulations in this Article are in conflict with the International Fuel Tax Agreement, the provisions of the International Fuel Tax Agreement are controlling.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202(d), ~~7202(h)(4)~~, 7203, 7261, 7262, 7270, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 6561, 6814, 6902, 7710, 8128, 8851, 9152, 12428, 12978, 30261, 30362, 32301, 32402, 38441, 38602, 40091, 40112, 41085, 41101, 43301, 43452, 45301, 45652, 46351, 46502, 50114, 50140, 55081, 55222, 60350 and 60522, Revenue and Taxation Code.

5021. CONTENTS OF PETITION FOR REDETERMINATION; AMENDMENTS.

(a) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The taxpayer or the taxpayer's representative shall sign the petition for redetermination. It shall be signed by the taxpayer, the taxpayer's authorized representative or any person directly interested. Any portion of the tax which the taxpayer concedes is owing by the taxpayer shall be indicated in the petition.

(b) The petition may be amended to state additional grounds at any time prior to the date the Board issues its order or decision on the petition.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202(d), ~~7202(h)(4)~~, 7203, 7261, 7262, 7270, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 6561.5, 6814, 7710.5, 8851.5, 12428, 30261.5, 32301.5, 38442, 40092, 41086, 43302, 45302, 46352, 50115, 55082 and 60351, Revenue and Taxation Code.

5022. CLAIMS FOR REFUND.

Every claim for refund shall be in writing and shall state the specific grounds upon which the claim is founded. The taxpayer or the taxpayer's representative shall sign the claim for refund. It shall be signed by the taxpayer, the taxpayer's authorized representative or any person directly interested. Although not required by statute to do so, the Board at its discretion may grant hearings on refund claims.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202(d), 7202(h)(4), 7203, 7261, 7262, 7270, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 6814, 6904, 8129, 9153, 12979, 30363, 32402, 38603, 40113, 41102, 43452, 45652, 46503, 50140, 55222 and 60523, Revenue and Taxation Code.

5023. APPEALS CONFERENCE.

(a) The Board Proceedings Division shall schedule an appeals conference with the parties and a conference holder who is an Appeals Attorney or Appeals Auditor independent of the assessing Department. As requested by the taxpayer, an appeals conference may be held at the Sacramento headquarters of the Board, a district office, by videoconference or by telephone. The appeals conference is an informal discussion of the relevant facts and applicable laws and regulations. The appeals conference is not an adversarial proceeding. Subpoenas are not issued for appeals conferences and testimony is not taken under oath; however, the conference holder will accept written statements made under penalty of perjury. The appeals conference is not recorded, videotaped or reported by the conference holder. Taxpayers may arrange for the appeals conference to be recorded or reported. If the appeals conference is recorded or reported, the taxpayer shall make a copy of the tape or transcript available to the conference holder upon request.

(b) Rescheduling and Postponements. Requests to reschedule or postpone appeals conferences shall be directed to the Board Proceedings Division.

(1) Rescheduling. If there is a scheduling conflict for an appeals conference scheduled to be held in-person at headquarters, by videoconference or by telephone, the appeals conference may be rescheduled to accommodate the parties. If a party has sufficient justification, At the discretion of the Chief of Board Proceedings, a second rescheduling may be allowed. An appeals conference scheduled to be heard at a district office may be postponed as discussed in subdivision (b) (2), unless the party requests that the appeals conference be rescheduled to a different district office, to headquarters, or to a telephone appeals conference. The Board Proceedings Division may reschedule an appeals conference scheduled to be heard at a district office to a different district office, to headquarters, to a videoconference, or a telephone conference, or may postpone the appeals conference to the same district office as provided in subdivision (b)(2).

(2) Postponement. Postponements are only applicable to appeals conferences that are scheduled at a district office. A postponement results in the case being placed back into the inventory of unassigned cases. If a party requests a postponement of an appeals conference to be held at the district office within 15 days after the date of the notice of the appeals conference sent by the Board Proceedings Division and has sufficient justification for requesting the postponement, the Board Proceedings Division may allow the postponement. If a party requests a postponement of the appeals conference later than 15 days after the date of the notice of the appeals conference, and can demonstrate extreme hardship for requesting the postponement, the Board Proceedings Division may allow the postponement. While only one postponement may be granted, an appeals conference may be rescheduled as provided in subdivision (b)(1).

(c) Failure to Respond or Appear; Waiver.

(1) If the taxpayer fails to respond to the notice of the appeals conference sent by the Board Proceedings Division by the deadline stated in the notice, or responds to the notice but fails to appear for the appeals conference, the conference holder shall conduct the appeals conference as scheduled with the Department.

(2) A party may waive appearance at the appeals conference.

(d) Submission of Additional Documents.

(1) A party may submit additional documents to the Appeals ~~Section~~ Division at any time before or during the appeals conference. If a party submits additional documents, the other party shall have the opportunity to respond to the documents either at the appeals conference or within 15 days after the appeals conference.

(2) If at an appeals conference a party requests time to submit additional documents, the party shall have 15 days after the appeals conference to submit the documents. The other party shall have an additional 15 days to respond to the documents submitted. If there is sufficient justification, the conference holder may extend the time period for either party by an additional 15 days. Neither party shall be allowed any further additional time to submit or respond to documents unless approved by either the Assistant Chief Counsel of the Appeals ~~Section~~ Division or his or her designees.

(3) A conference holder may contact either or both of the parties after the appeals conference in order to obtain clarification of the issues, or additional information on the issues. However, the conference holder shall not rely on any information obtained after the appeals conference in deciding an issue against a party, without giving that party an opportunity to respond to the information.

(e) Within 90 days after the submission of any additional documents as authorized in subdivision (d) above, the conference holder shall issue a written report of his or her findings, called a Decision and Recommendation, copies of which shall be sent to all parties. If a party did not appear at the appeals conference, the Decision and Recommendation will be based on the information in the file and the information obtained from the other party. The Chief Counsel or his or her designee may allow additional time beyond the 90 days to prepare the Decision and Recommendation. Both the request for additional time and the granting of additional time shall be in writing and copies provided to all parties to the conference.

(f) If the taxpayer or the Department has requested ~~a~~ an oral hearing prior to, or within 30 days of, the date that the Decision and Recommendation was mailed to the taxpayer, an oral hearing before the Board will be scheduled. If ~~an oral~~ an oral hearing before the Board is not requested, official notice of the Board's action on the Decision and Recommendation will be mailed to the taxpayer.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, ~~7202(h)(4)~~, 7203, 7261, 7262, 7270, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 6561, 6814, 6902, 7710, 8128, 8851, 9152, 12428, 12978, 30261, 30362, 32301, 32402, 38441, 38602, 40091, 40112, 41085, 41101, 43301, 43452, 45301, 45652, 46351, 46502, 50114, 50140, 55081, 55222, 60350 and 60522, Revenue and Taxation Code.

ARTICLE 3. HEARINGS ON JEOPARDY DETERMINATIONS

5030. DEFINITIONS; BOARD HEARING PROCEDURES; TAXES AFFECTED BY THIS ARTICLE.

(a) The definitions in Article 7, Regulation 5070 shall apply to this Article, and Board hearings on petitions and applications filed pursuant to this Article shall be conducted pursuant to the hearing procedures set forth in Article 7, commencing with Regulation 5070.

(b) This Article applies to jeopardy determinations, and jeopardy assessments of private railroad cars, issued under the following programs, and provides two alternative means to challenge a jeopardy determination or jeopardy assessment: filing a petition for redetermination or reassessment and stay of collection pursuant to Regulation 5031; and filing an application for an administrative hearing pursuant to Regulation 5032:

Alcoholic Beverage Tax

California Constitution Article XX, Section 22;

Revenue and Taxation Code Sections 32001-~~32556~~ 32557

~~Ballast Water Management Fee~~

~~Public Resources Code Sections 71200-71271;~~

~~Revenue and Taxation Code Sections 44000-44008, 55001-55381~~

~~California Tire Fee~~

Public Resources Code Sections 42860-42895;
Revenue and Taxation Code Sections 55001-55381

Childhood Lead Poisoning Prevention Fee
Health and Safety Code Section 105310;
Revenue and Taxation Code Sections 43001-43651

Cigarette and Tobacco Products Tax
California Constitution Article XIII B;
Revenue and Taxation Code Sections 30001-30481

Diesel Fuel Tax
Revenue and Taxation Code Sections 60001-60709

Hazardous Substances Tax
Revenue and Taxation Code Sections 43001-43651

Integrated Waste Management Fee
Revenue and Taxation Code Sections 45001-45984

Marine Invasive Species Fee Collection Law
Public Resources Code Sections 71200-71271;
Revenue and Taxation Code Sections 44000-44008, 55001-55381

Motor Vehicle Fuel ~~License~~-Tax
California Constitution Article XIX;
Revenue and Taxation Code Sections 7301-~~8405~~8526

Natural Gas Surcharge
Public Utilities Code Sections 890-900;
Revenue and Taxation Code Sections 55001-55381

Occupational Lead Poisoning Prevention Fee
Health and Safety Code Section 105190;
Revenue and Taxation Code Sections 43001-43651

Oil Spill Response, Prevention, and Administration Fees
Revenue and Taxation Code Sections 46001-46751

Private Railroad Car Tax
Revenue and Taxation Code Sections 11201-11702

Sales and Use Tax
(including State-administered local sales, transactions, and use taxes)
Revenue and Taxation Code Sections 6001-7279.6

Timber Yield Tax
Revenue and Taxation Code Sections 38101-38908

~~Tire Recycling Fee~~
~~Public Resources Code Sections 42860-42895;~~
~~Revenue and Taxation Code Sections 55001-55381~~

Underground Storage Tank Maintenance Fee
Revenue and Taxation Code Sections 50101-~~50164~~50162

Use Fuel Tax
Revenue and Taxation Code Sections 8601-9355

(c) To the extent that regulations in this Article are in conflict with the International Fuel Tax Agreement, the provisions of the International Fuel Tax Agreement are controlling.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, ~~7202(h)(4)~~,

7203, 7261, 7262, 7270, 8251, 9251, 11651, 30451, 32451, 38701, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 6538, 6538.5, 7700, 7700.5, 8828, 8828.5, 11353, 30243, 30243.5, 32312, 32313, 38433, 38435, 43351, 43352, 45352, 45353, 46302, 46303, 50120.2, 50120.3, 55102, 55103, 60332 and 60333, Revenue and Taxation Code.

ARTICLE 7. GENERAL BOARD HEARING PROCEDURES

5070. DEFINITIONS.

The following definitions apply to this chapter:

(a) "Appeals Staff," "Appeals Attorney" or "Appeals Auditor" means ~~and includes~~ an employee of the Board of Equalization assigned to the Appeals ~~Section~~Division of the Legal ~~Division~~Department.

(b) "Board" means the members of the State Board of Equalization meeting as a body.

(c) "Board Staff" or "Board Attorney" means ~~and includes~~ an employee of the Board of Equalization charged with a responsibility under this Chapter or appearing before the Board in any proceeding.

(d) "Brief" means a written document that includes discussion of, or citations to, laws or regulations or an argument of how the laws or regulations apply to the facts supporting the party's position. Notwithstanding this definition, affidavits or declarations submitted by the parties and documents produced by the Appeals ~~Section~~Division, including, but not limited to, a Hearing Summary or Final Action Recommendation, are not briefs.

(e) "Delivery Service" means any delivery service provided by a trade or business if such service is available to the general public and records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item is delivered, the date on which such item was given to the trade or business for delivery.

(f) "Department" ~~includes means~~ the Property and Special Taxes Department, Sales and Use Tax Department, ~~Special Taxes Department~~, Energy Commission, Department of Fish and Game, Franchise Tax Board, Department of Health Services, Department of Insurance, Integrated Waste Management Board, Public Utilities Commission, Department of Toxic Substances Control and Water Resources Control Board.

(g) "Party" means ~~and includes~~ the taxpayer and the taxpayer's representative; and the Department as defined in this section. In local tax reallocation and district tax redistribution appeals, the term "party" means those persons defined as parties in Regulations 1807 or 1828.

(h) "Petition" means ~~and includes~~ any petition, including a petition for redetermination; claim, including a claim for refund; appeal from an action of the Franchise Tax Board on a claim for refund, deficiency assessment, or jeopardy assessment; request for administrative hearing; petition for ~~reconsideration~~rehearing; petition for ~~reconsideration~~rehearing of successor liability; petition for review of local tax reallocation inquires; petition for review of district tax redistribution inquires; and any other matter for administrative decision or adjudication by the Board in any program listed in Regulation 5071. Any correspondence from a taxpayer directed to Board Staff, mailed within 30 days after the notice of determination has been issued, that includes a statement that the taxpayer (1) disagrees with an assessment and/or determination or (2) requests a hearing, shall be accepted as a petition for redetermination. Staff shall indicate to the taxpayer any specific deficiencies in the petition and offer the taxpayer a reasonable period of time to perfect the petition.

(i) "Tax" means ~~and includes~~ any tax, fee, surcharge, assessment, assessment review, or exemption program administered by the Board.

(j) "Taxpayer" ~~includes means~~ a taxpayer, feepayer, surcharge payer, appellant, petitioner, claimant, or any other person who has a liability, assessment, or other matter for Board hearing or who is a person directly interested in any matter before the Board under any of the programs listed in Regulation 5071. A taxpayer is

not a party to a local tax reallocation or district tax redistribution appeal except as provided in Regulation 1807 or 1828.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, ~~7202(h)(4)~~, ~~7203~~, ~~7261~~, ~~7262~~, 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7209, 7270, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19335, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5071. GENERAL.

(a) This article applies to Board hearings under any of the following programs:

Administration of Franchise and Income Tax Laws
Revenue and Taxation Code Sections 18401-19802

Alcoholic Beverage Tax
California Constitution Article XX, Section 22;
Revenue and Taxation Code Sections 32001-34557

~~Ballast Water Management Fee~~
~~Public Resources Code Sections 71200-71271;~~
~~Revenue and Taxation Code Sections 44000-44008, 55001-55381~~

California Tire Fee
Public Resources Code Sections 42860-42895;
Revenue and Taxation Code Sections 55001-55381

Childhood Lead Poisoning Prevention Fee
Health and Safety Code Section 105310;
Revenue and Taxation Code Sections 43001-43651

Cigarette and Tobacco Products Tax
California Constitution Article XIII B;
Revenue and Taxation Code Sections 30001-30481

Diesel Fuel Tax
Revenue and Taxation Code Sections 60001-60709

Emergency Telephone Users Surcharge
Revenue and Taxation Code Sections 41001-41176

Energy Resources Surcharge
Revenue and Taxation Code Sections 40001-40216

Hazardous Substances Tax
Revenue and Taxation Code Sections 43001-43651

Insurance Tax
California Constitution Article XIII, Section 28;
Revenue and Taxation Code Sections 12001-13170

Integrated Waste Management Fee
Revenue and Taxation Code Sections 45001-45984

Marine Invasive Species Fee Collection Law
Public Resources Code Sections 71200-71271;
Revenue and Taxation Code Sections 44000-44008, 55001-55381

Motor Vehicle Fuel ~~License~~ Tax
California Constitution Article XIX, Sections 1-9;

Revenue and Taxation Code Sections 7301-~~8405~~8526

Natural Gas Surcharge

Public Utilities Code Sections 890-900;
Revenue and Taxation Code Sections 55001-55381

Occupational Lead Poisoning Prevention Fee

Health and Safety Code Section 105190;
Revenue and Taxation Code Sections 43001-43651

Oil Spill Response, Prevention, and Administration Fees

Revenue and Taxation Code Sections 46001-46751

Private Railroad Car Tax

California Constitution Article XIII, Section 19;
Revenue and Taxation Code Sections 11201-11702

Publicly Owned Property

California Constitution Article XIII, Section 11(g);
Revenue and Taxation Code Sections 1840 and 1841

Sales and Use Tax

(including State-administered local sales, transactions, and use taxes)
Revenue and Taxation Code Sections 6001-7279.6

Senior Citizens Homeowners and Renters Property Tax Assistance

Revenue and Taxation Code Sections 20501-20646

State-Assessed Property

California Constitution Article XIII, Section 19;
Revenue and Taxation Code Sections 721-868, 4876-4880, 5011-5014

Timber Yield Tax

Revenue and Taxation Code Sections 423.5, 431-437, 38101-38908

~~Tire Recycling Fee~~

~~Public Resources Code Sections 42860-42895;~~

~~Revenue and Taxation Code Sections 55001-55381~~

Underground Storage Tank Maintenance Fee

Revenue and Taxation Code Sections 50101-50162

Use Fuel Tax

Revenue and Taxation Code Sections 8601-9355

Welfare Exemption

California Constitution Article XIII, Section 4(b);
Revenue and Taxation Code Sections 214-214.14, 254.5, 270-272

(b) This article sets forth rules of general application ~~which that~~ apply to hearings before the Board in all of the programs listed above. Where the procedure for a specific program differs from the general rule, the specific program and procedure are described in a subsectionsubdivision of the general rule. In addition, prior articles include regulations ~~which that~~ address specific procedures for appeals from the Franchise Tax Board (Article 1), Business Taxes and Timber Yield Tax (Article 2), Hearings on Jeopardy Determinations (Article 3), State Assesseees and Private Railroad Car Companies (Article 4), Taxable Property of a County, City, or Municipal Corporation (Article 5), and Property Tax Welfare Exemptions (Article 6).

(c) To the extent that regulations in this Article are in conflict with the International Fuel Tax Agreement, the provisions of the International Fuel Tax Agreement are controlling.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, ~~7202(h)(4)~~, 7203, 7261, 7262, 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 41071, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5075. BRIEFS.

(a) Briefs are required in appeals of decisions of the Franchise Tax Board and are optional in all business taxes matters before the Board. This regulation applies to all briefs filed with the Board, except that the more specific requirements-briefing schedule of Regulation 5075.1 shall apply to appeals from actions of the Franchise Tax Board and the schedule in subdivisions (e) through (h) of Regulation 5041 shall apply to the filings required by Regulation 5041. In property tax matters, the petition, the staff analysis, the petitioner's response to the staff analysis, and, where appropriate, a non-party brief submitted pursuant to subdivision (h), are briefs within the meaning of this regulation, and only these documents will be accepted for filing and distribution; however, where circumstances warrant, the Board may request that additional briefs be filed, and will set the briefing schedule. Except in those circumstances, additional briefs are not accepted in property tax matters.

(b) General. Any brief filed with the Board shall be filed within the time required by these regulations or, if no time is so specified, as directed by the Board or the Chief, of Board Proceedings-Division. All briefs shall be addressed and mailed to the Chief, of Board Proceedings-Division, at the headquarters office of the State Board of Equalization at Sacramento, or deposited personally at the headquarters office of the Board in Sacramento. In addition, except as otherwise provided in the Rules of Practice, all briefs shall be mailed or personally delivered to the other parties. Excluding the Table of Contents and exhibits, no ~~No~~ brief shall exceed 30 typed or handwritten, double-spaced, or 15 typed or handwritten, single-spaced, 8 1/2" by 11" pages, printed only on one side in a type-font size of at least 10 points or 12 characters per inch (CPI), or the equivalent, excluding exhibits. Exceptions to the 30-page30-page limit may be granted prior to the deadline for filing the brief by the Chief, of Board Proceedings-Division, upon written application that establishes reasonable circumstances that justify the necessity for additional pages. In the event the brief does not conform to the form and page limit specified above, the Board Proceedings Division may return the submitted brief ~~may be returned by the Chief, Board Proceedings Division~~. The party shall be given 10 days to comply with the form and page limit. Failure to comply within 10 days shall constitute a waiver of the opportunity to submit the brief.

(c) Opening Briefs. Any party may file an opening brief. An opening brief shall contain, along with any other information required by these regulations, a statement of the issue(s), a statement of the facts, and a discussion of the legal authorities, including statutes and regulations, relied on by the party submitting the opening brief. Opening briefs shall be filed with the Chief, of Board Proceedings Division ~~Division~~ no later than 45 days before the Board hearing.

(d) Reply Briefs. A reply brief is a brief that is filed by any party in response to any opening brief and shall contain a statement of the issue(s), including relevant issues not raised by the opening brief, a statement of the facts as understood by the party submitting the reply brief, a discussion of the legal authorities, including relevant statutes and regulations, relied on by the party submitting the reply brief, and presentation of any affirmative defenses. Reply briefs shall be filed with the Chief, of Board Proceedings Division ~~Division~~ no later than 30 days before the Board hearing.

(e) Briefs Filed by Unrepresented Taxpayer. A taxpayer who appears at a Board hearing without a representative, and who has not employed a representative to prepare a brief, may, at the discretion of the Board, submit a brief on the day of the hearing.

(f) Post-Hearing Briefs. The Board may permit the filing of post-hearing briefs and memoranda of legal authorities, including relevant statutes and regulations, on any matters considered at a hearing. However, any post-hearing submissions-brief shall only be permitted by order of the Board at the conclusion of a hearing, on the subject matter specified and within the time limits prescribed by the Board.

(g) Extensions Of Time. A reasonable extension of time for the filing of briefs may be granted by the Chief, of Board Proceedings-Division, upon a showing of extreme hardship. The request for an extension of time shall be submitted in writing before the scheduled due date of any brief.

(h) Non-Party (Amicus) Briefs. A pre-hearing brief or letter from a non-party shall be filed with the Chief, ~~of~~ Board Proceedings ~~Division~~ no later than 30 days before the Board hearing, and the parties may file responses with the Chief, ~~of~~ Board Proceedings ~~Division~~ no later than 15 days before the hearing. The response by the party shall address only the points of disagreement the party has with the non-party brief or letter. A non-party post-hearing brief or letter may be filed only if the Board has requested post-hearing briefing from the parties and no later than the end of the post-hearing briefing period prescribed by the Board for the parties. A non-party brief shall conform to the general requirements set forth in (b) above. A non-party brief or letter shall contain a statement regarding the nature of the non-party's interest in the outcome of the proceeding.

(i) Additional ~~b~~Briefing. In extraordinary situations, the Board or the Board Staff may request additional briefing from either party after the briefing period is ordinarily complete. Any such requested brief shall be filed within the time specified by the Board or Board Staff.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, ~~7202(h)(4)~~, 7203, 7261, 7262, 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5075.1. APPEALS FROM ACTIONS OF THE FRANCHISE TAX BOARD: BRIEFING SCHEDULE.

(a) Appeals From Actions Of The Franchise Tax Board: General; Non-party (Amicus) Briefs. In all appeals from actions of the Franchise Tax Board, other than appeals contesting a finding of jeopardy status, the parties shall adhere to the following schedules and procedures for filing briefs. In jeopardy status appeals, ~~Board Staff~~the Board Proceedings Division shall notify the parties of the schedule and procedure for filing briefs. Non-party (Amicus) briefs or letters may be filed up to and until the time that the briefing period, established pursuant to this Rule, for both the taxpayer and the Franchise Tax Board has ended. Either party may file a response to the non-party brief or letter no later than 30 days prior to the hearing. The response by the party shall address only the points of disagreement the party has with the non-party brief or letter. The response shall not extend the briefing period.

(b) Appeals From Actions Of The Franchise Tax Board: Opening And Reply Briefs.

(1) If the appeal is filed within the statutory period but is incomplete, the taxpayer shall be granted 90 days from the date of the acknowledgment letter from the Board Proceedings Division within which to perfect the appeal by submitting information requested in the letter from the Board Proceedings Division. Two copies of all submissions shall be mailed to the Board Proceedings Division, who will forward one copy to the Franchise Tax Board. The Chief of Board Proceedings may dismiss the incomplete appeal opening brief as required by these regulations. A copy of all such materials shall also be mailed by the taxpayer to the Franchise Tax Board. The appeal is subject to dismissal if it is not perfected within the 90-day period.

(2) After ~~filing of~~ an appeal is perfected, the Board Proceedings Division will mail a notification letter to all parties of the taxpayer's perfected appeal. Except as provided in subdivision (b)(3), the Franchise Tax Board shall be allowed 90 days from the date of the notification letter Chief, Board Proceeding Division's letter acknowledging receipt of the taxpayer's complete appeal in which to file a reply brief in support of its position. The Franchise Tax Board shall mail a copy of the reply brief to the taxpayer.

(3) For Senior Citizens Homeowners and Renters Property Tax Assistance appeals, after an appeal is perfected, the Franchise Tax Board shall be allowed 60 days from the date of the notification letter in which to file the reply brief. The Franchise Tax Board shall mail a copy of the reply brief to the taxpayer.

(c) Appeals From Actions Of The Franchise Tax Board: Supplemental Briefs.

(1) The taxpayer may file a supplemental brief, addressing only the points of disagreement the taxpayer has with the Franchise Tax Board's reply brief, within 30 days from the date of the Board's letter acknowledging receipt of the Franchise Tax Board's reply brief. The taxpayer shall mail ~~a copy~~two copies of

the supplemental brief to the Board Proceedings Division, who will forward one copy to the Franchise Tax Board. This brief shall ordinarily complete the briefing.

(2) In extraordinary circumstances, the Franchise Tax Board may be permitted to file a supplemental brief, addressing only the points of disagreement the Franchise Tax Board has with the taxpayer's supplemental brief, but only pursuant to previous written permission from Board Staff. Any such permissive supplemental briefs shall be filed within 30 days after receipt of permission to file. If the Franchise Tax Board is allowed to file a supplemental brief, the taxpayer shall have 30 days after receipt of the brief is acknowledged by the Board to file a response. This response shall then complete the briefing.

(d) Appeals From Actions Of The Franchise Tax Board: Extensions Of Time.

~~—(1) At the discretion of the Chief, of Board Proceedings Division, extensions of time for the filing of briefs may be granted upon a showing of extreme hardship or when the parties agree in writing to an extension of time and the request or agreement is filed with the Board Proceedings Division before the scheduled due date of any brief.~~

~~—(2) Where either party fails to meet due dates, with the exception of failure to perfect as described above in Subsection (b)(1), the briefing of the appeal shall end and the Board shall take the matter under submission for decision on the existing written record.~~

(e) Additional Briefing or Evidence. If the Board or Board Staff, in either's discretion, determines that insufficient briefing or evidence has been provided, the Board or Board Staff may request additional briefing or evidence from either party. A request for additional briefing or evidence may be made during the briefing period or after the briefing period is ordinarily complete. Any such requested briefs or evidence shall be submitted within the time specified by the Board or Board Staff. ~~If additional briefing from the Franchise Tax Board is requested by Board staff~~ Board Staff requests additional briefing from the Franchise Tax Board, the taxpayer shall have 30 days after receipt of the brief is acknowledged by Board sStaff to file a final response.

Note: Authority: Section 15606(a), Government Code.

Reference: Sections ~~19405, 19406, 19045, 19046,~~ 19047, 19048, 19072, 19084, 19085, 19087, 19331, 19332, 19333, 19334, 19345, 19346 and 20645, Revenue and Taxation Code.

5076. NOTICE OF BOARD HEARING; WAIVER OR POSTPONEMENT OF HEARING; FAILURE TO RESPOND TO HEARING NOTICE OR TO APPEAR FOR HEARING; PLACE OF HEARING.

(a) This regulation applies to all Board hearings, except that the more specific provisions of Regulation 5076.1 apply to appeals from actions of the Franchise Tax Board.

(b) Notice of Board Hearing; Waiver. Board Staff shall send notice of the Board hearing to the taxpayer and the Department at least 60 days in advance of the hearing date, giving the parties 15 days to respond to the hearing notice. The 60-day notice period may be waived upon agreement among the parties and the Chief, ~~of Board Proceedings Division~~. If the 60-day notice period is waived, the Chief, ~~of Board Proceedings Division~~ shall modify the briefing schedule set forth in Regulation 5075. The taxpayer shall respond to the hearing notice by indicating: that the taxpayer will appear at the time and place noted; or, that the taxpayer waives oral hearing and requests that the case be submitted to the Board for decision without oral hearing and based upon the written record; or, that the taxpayer requests that the hearing be postponed, stating the reason the postponement is requested.

(c) Postponement Of Board Hearing. ~~The Chief of Board Proceedings may grant one~~ ~~One~~ postponement of a hearing ~~may be granted~~ upon agreement of the parties if the ~~taxpayer or the Department requests it~~ request for postponement is made by the deadline stated in the hearing notice, ~~and~~ provides sufficient justification for the postponement, and the parties commit to a specific subsequent hearing date. ~~The Chief of Board Proceedings may grant a~~ A postponement requested after response to the hearing notice ~~shall be granted~~ upon agreement of the parties ~~and upon~~ a showing of extreme hardship. A postponement of a hearing may also be granted at the discretion of the Board. At the Board's discretion, a postponement may be granted.

(d) Removal From Calendar. The Chief, ~~of Board Proceedings Division~~, may remove hearings or related proceedings from the hearing calendar ~~for~~ upon a showing of reasonable cause.

(e) Failure To Respond Or Appear. If the taxpayer fails to respond to the hearing notice by the deadline stated in the notice, or responds to the hearing notice but fails to appear for the hearing on the date and time stated in the notice, the case shall be submitted to the Board for decision without oral hearing and on the basis of the written record. At the Board's discretion of the Chief of Board Proceedings, exceptions ~~shall~~ may be made upon a showing of extreme hardship.

(f) Place Of Hearing. Except for a hearing on a property tax petition, a hearing involving a taxpayer or taxpayer's representative residing in the Southern part of the State shall ordinarily be held in the Los Angeles area. Other hearings and hearings on property tax petitions shall ordinarily be held in Sacramento. At its discretion, the Board may hold hearings at other locations.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202~~(d)~~, 7202(h)(4), 7203, 7261, 7262, 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5076.1. APPEALS FROM ACTIONS OF THE FRANCHISE TAX BOARD: VOLUNTARY DISMISSAL; NEGOTIATIONS; DEFERRALS; SUBMISSION FOR DECISION; ORAL HEARINGS.

(a) Appeals From Actions Of The Franchise Tax Board: Voluntary Dismissal; Negotiations. At any time, the Chief of Board Proceedings may dismiss ~~An an~~ appeal from an action by the Franchise Tax Board ~~may be dismissed at any time~~ at the written request of the taxpayer, ~~upon at~~ the request of the Franchise Tax Board when it concedes the deficiency or the refund, or on the basis of a written stipulation between the taxpayer and the Franchise Tax Board. At any time prior ~~Prior~~ to a final decision by the Board, the taxpayer and the Franchise Tax Board may enter into negotiations ~~at any time~~ for settlement of an appeal.

(b) Appeals From Actions Of The Franchise Tax Board: Deferrals. The ~~Board or Board Staff~~ Board Proceedings Division may defer hearings or related proceedings, including briefing, for an indefinite period upon the filing of a written stipulation between the taxpayer and the Franchise Tax Board, or, ~~for upon a showing of~~ reasonable cause, for a specified period. The Board Proceedings Division shall notify the parties whether a deferral has been granted.

(c) Appeals From Actions Of The Franchise Tax Board: Submission For Decision; Oral Hearings. After all briefs have been filed in a Franchise Tax Board matter, the appeal shall be submitted for decision on the basis of the written record unless the taxpayer requests an oral hearing.

Note: Authority: Section 15606(a), Government Code.

Reference: Sections 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346 and 20645, Revenue and Taxation Code.

5079. HEARING PROCEDURE: ORDER OF PRESENTATION; WITNESSES; PRESENTATION OF EVIDENCE; STIPULATION OF FACTS; OFFICIAL NOTICE; CONCLUSION OF HEARING.

(a) This Except as to more specific requirements set forth in other regulations of these Rules of Practice, this regulation applies to all Board hearings.

(b) Order of Presentation. The hearing shall ordinarily proceed in the following manner. A member of the Board Staff shall report on the record whether campaign contribution disclosure statements have been filed in accordance with the requirements of Title 18, Division 2.2, Regulation 7011, and whether any disqualifying contributions have been reported. A Board Attorney shall summarize by oral statement the issues of each case. Taxpayers shall then state their position, and present evidence as they see fit, including by means of visual aids, subject to rulings by the Board Chair. The Department shall thereafter state its position and present its evidence. Taxpayers shall then be given an opportunity to reply.

(c) Witnesses.

(1) The taxpayer and the Department may offer witnesses to testify. The Board encourages the parties to provide the ~~Chief, Board Proceedings Division,~~ with the name and address of any witness who is going to testify and a brief description of the purpose of their testimony, in advance of the hearing. In addition, the Board Chair may, at the Board Chair's discretion or upon the request of a party, direct witnesses to testify under oath or affirmation. Each party may cross-examine opposing witnesses.

(2) Board Staff may, upon recognition by the Board Chair, question the parties, cross-examine persons called as witnesses, and explain Board Staff's view as to the validity of any argument made, the value of evidence submitted, and any other relevant matter.

(d) Presentation of Evidence. Any relevant evidence, including affidavits, declarations under penalty of perjury, and hearsay evidence, may be presented if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Each party shall be permitted to comment on or respond to any affidavits or declarations submitted.

Items of documentary evidence and citations to judicial decisions issued after the briefing period has ended, and an analysis, discussion or arguments concerning the relevance of the evidence or decision, may be submitted to the ~~Chief, of Board Proceedings Division,~~ at any time prior to or at the hearing on the matter, or at any time prior to the matter being submitted for decision if no hearing is held on the matter. The ~~Chief, of Board Proceedings Division,~~ will send a copy of the evidence or citations and any analysis, discussion or arguments concerning the relevance of the evidence or decision to the members of the Board and to the other party. The Board or Board Staff will permit the other party an opportunity to submit a response that shall be limited to points of disagreement with the analysis, discussion or arguments.

The Board shall be liberal in allowing the presentation of evidence, but objections to the presentation of and comments on the weaknesses of evidence shall be considered in assigning weight to the evidence. The Board may refuse to allow the presentation of evidence that it considers irrelevant, untrustworthy or unduly repetitious.

(e) Submission of Exhibits into Evidence. Any materials presented by any party which have been marked as exhibits during the matter and which the party elects to be entered into the record must be moved into evidence. The Chair will ask the parties if the exhibits are to be submitted. A party must make a motion to move the exhibits into evidence. If there are no objections, the exhibit will be entered into evidence and made a part of the record of the pending matter. If any member or party objects to the admission of evidence, the question shall be discussed and voted upon by the Board.

(f) Stipulation of Facts. The taxpayer and the Department may file, at any time prior to submission of the case for decision, a stipulation of the facts upon which they agree, the facts that are in dispute, and the reasons for the dispute. The Board or Board Staff may require the parties to file such a stipulation.

(g) Official Notice. The Board may take official notice of:

(1) the records maintained by the Board;

(2) tax returns filed with the Franchise Tax Board for or on behalf of the taxpayer or an affiliated company, together with related records on file with the Franchise Tax Board;

(3) any fact which may be judicially noticed by the courts of this State. The parties may, at the hearing or through a petition for rehearing, request permission to refute any matter thus noticed.

(h) Conclusion of Hearing. That portion of the hearing in which evidence and argument are presented to the Board shall be concluded: upon a vote of the Board Members to conclude that portion of the hearing; by a declaration of the Board Chair that such portion of the hearing is concluded if there is no challenge to the Chair; or upon the making of a motion and a second that any action be taken on the matter.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; ~~and Sections 7051, 7202(d), 7202(h)(4), 7203, 7261, 7262,~~ 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5082.1. APPEALS FROM ACTIONS OF THE FRANCHISE TAX BOARD: FORMAL WRITTEN OPINION; FINALITY OF DECISION; PETITION FOR REHEARING.

(a) When the Board votes to take a matter under submission and directs that a formal written opinion be drafted, the matter is not decided until the Board votes to adopt the formal opinion or subsequently decides the matter without adopting a formal written opinion.

(b) The Board's decision is final 30 days from the date the Board decides the matter unless a petition for rehearing is filed within that period by either party. A copy of the petition for rehearing shall be mailed to the other party. If a petition for rehearing is filed, the decision is final either: (1) 30 days after the Board denies the petition for rehearing; or (2) if, the Board grants a rehearing, 30 days after the Board decides the matter on rehearing.

(c) A petition for rehearing shall clearly state the legal and/or factual basis for the request. Reasons for requesting a rehearing include arguments that the Board made an error of law reaching its decision or that there is newly discovered evidence that was unavailable prior to the Board decision. Failure to state the legal and/or factual basis for a rehearing may result in denial of the petition for rehearing.

(d) If a petition for rehearing is timely filed, but is incomplete, the filing party shall be granted 30 days from the date of the acknowledgement letter from the Board Proceedings Division to perfect the petition for rehearing.

(e) The opposing party shall be given 30 days from the date of the letter from the Board Proceedings Division acknowledging receipt of a perfected appeal in which to file a reply brief.

Note: Authority: Section 15606(a), Government Code.

Reference: Sections 19048, 19072, 19084, 19087, 19334, 19346 and 20645, Revenue and Taxation Code.

5083. FEES: FILING, SUBPOENAS, TRANSCRIPTS, AND COPIES; ~~REMOVAL OF BOARD RECORDS AND FILES.~~

~~The Board shall not charge a fee. No fee shall be charged by the Board~~ for the filing of any paper or the issuance of a subpoena. Charges for transcripts of testimony heard before the Board shall be made at the rates specified in Section 69950 of the Government Code. ~~The records and files of the Board shall not be removed from its offices for use as evidence or other purposes.~~ Copies, including certified copies, of records ~~which that~~ the Board is permitted by law to divulge shall, ~~however~~, be furnished to litigants or other interested persons at costs as specified in Section ~~6257-6253~~ of the Government Code and Section 1798.33 of the Civil Code.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 7202(d), ~~7202(h)(4), 7203, 7261, 7262,~~ 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections ~~6257-6253~~ and 15613, Government Code; and Section 1798.33, Civil Code.

5087. ~~WITHDRAWAL OF EXHIBITS.~~

~~At the conclusion of a hearing any exhibit may be withdrawn on request of the party who produced the exhibit. In such case the party may be required to substitute an exact legible copy of the original thereof.~~

~~Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; Sections 7051, 7202(d), 7202(h)(4), 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.~~

ARTICLE 9. TAXPAYER BILL OF RIGHTS REIMBURSEMENT CLAIMS

5090. DEFINITIONS. BOARD HEARING PROCEDURES: TAXES AFFECTED BY THIS ARTICLE.

a) The definitions of Article 7, Regulation 5070 shall apply to this Article, and Board hearings on claims filed pursuant to this Article shall be conducted pursuant to the hearing procedures set forth in Article 7 commencing with Regulation 5070, except as otherwise noted.

b) This Article applies to reimbursement claims under any of the following programs:

Corporate Franchise and Income Tax --

Personal Income and Bank and Corporation Income Tax
Revenue and Taxation Code Sections 18401-19802

Business and Property Taxes --

Alcoholic Beverage Tax
California Constitution Article XX, Section 22;
Revenue and Taxation Code Sections 32001-32557

~~Ballast Water Management Fee
Public Resources Code Sections 71200-71271;
Revenue and Taxation Code Sections 44000-44008, 55001-55381~~

California Tire Fee
Public Resources Code Sections 42860-42895;
Revenue and Taxation Code Sections 55001-55381

Childhood Lead Poisoning Prevention Fee
Health and Safety Code Section 105310;
Revenue and Taxation Code Sections 43001-43651

Cigarette and Tobacco Products Tax
California Constitution Article XIIB, Section 12;
Revenue and Taxation Code Sections 30001-30481

Diesel Fuel Tax
Revenue and Taxation Code Sections 60001-60709

Emergency Telephone Users Surcharge
Revenue and Taxation Code Sections 41001-41176

Energy Resources Surcharge
Revenue and Taxation Code Sections 40001-40216

Hazardous Substances Tax
Revenue and Taxation Code Sections 43001-43651

Integrated Waste Management Fee
Revenue and Taxation Code Sections 45001-45984

Marine Invasive Species Fee Collection Law
Public Resources Code Sections 71200-71271;
Revenue and Taxation Code Sections 44000-44008, 55001-55381

Motor Vehicle Fuel Taxes
California Constitution Article XIX, Sections 1-9;
Revenue and Taxation Code Sections 7301-~~8405~~8526

Natural Gas Surcharge
Public Utilities Code Sections 890-900;
Revenue and Taxation Code Sections 55001-55381

Occupational Lead Poisoning Prevention Fee

Health and Safety Code Section 105190;
Revenue and Taxation Code Sections 43001-43651

Oil Spill Response, Prevention and Administration Fees
Revenue and Taxation Code Sections 46001-46751

Private Railroad Car Tax
California Constitution Article XIII, Section 19;
Revenue and Taxation Code Sections 11201-11702

Sales and Use Tax
(including State-administered local sales, transactions and use taxes)
Revenue and Taxation Code Sections 6001-7279.6

Timber Yield Tax
Revenue and Taxation Code Sections 423.5, 431-437, 38101-38908

~~Tire Recycling Fee
Public Resources Code Sections 42860-42895;
Revenue and Taxation Code Sections 55001-55381~~

Underground Storage Tank Maintenance Fee
Revenue and Taxation Code Sections 50101-50162

Use Fuel Tax Law
Revenue and Taxation Code Sections 8601-9355

(c) To the extent that regulations in this Article are in conflict with the International Fuel Tax Agreement, the provisions of the International Fuel Tax Agreement are controlling.

Note: Authority: Section 15606(a), Government Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 8251, 9251, 11651, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 7091, 8269, 9269, 11657, 21013, 30458.9, 32469, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330 and 60630, Revenue and Taxation Code.

5091. ELIGIBLE CLAIMS.

Only those expenses ~~which that~~ were incurred after the date of the notice of determination, jeopardy determination or claim for refund in business or property tax cases and after the date of filing an appeal to the Board in corporate franchise and income tax cases are eligible for reimbursement. Expenses incurred in a business tax or Timber Yield Tax case are "related to a hearing before the board" and reimbursable only if the claimant sought Board review of an unfavorable Decision and Recommendation issued by the Appeals ~~Section~~Division and only if the Board finds that the action taken by Board Staff was unreasonable. To determine whether Board Staff has been unreasonable, the Board shall consider whether Board Staff has established that its position was substantially justified. This means that a taxpayer whose petition for redetermination or claim for refund is not granted does not have an eligible claim. ~~With the exception of expenses incurred in cases resolved through the Franchise Tax Board's Review and Write (RW) procedure, all~~ expenses incurred in corporate franchise or income tax appeals to the Board are "related to a hearing before the board."

Note: Authority: Section 15606(a), Government Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 8251, 9251, 11651, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 7091, 8269, 9269, 11657, 21013, 30458.9, 32469, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330 and 60630, Revenue and Taxation Code.

5093. CLAIM PROCEDURE.

(a) Claim Form. The claim shall be filed with the Chief, of Board Proceedings ~~Division~~, on the Taxpayers' Bill of Rights Reimbursement Claim form (7/98), which is hereby incorporated by reference.

(b) One Year Filing Deadline: Complete Claim Form. The completed claim form shall be filed within one year of the date the decision of the Board becomes final. At the discretion of the Chief, of Board Proceedings ~~Division~~, extensions of time for the filing of a completed claim form may be granted upon a showing of good cause if the written request is filed with the Chief, of Board Proceedings ~~Division~~, prior to the scheduled due date of the claim form. If the claim form filed is incomplete, the claimant shall be granted 30 days additional time to complete the claim form. Failure to file a complete claim within the time granted will result in dismissal of the claim by the Chief of Board Proceedings.

(c) Dismissal of Ineligible Claim. The Chief of Board Proceedings shall dismiss a claim when the Board previously disposed of the case at hearing without granting the petition for redetermination or claim for refund.

(~~ed~~) Staff Statement. Within 60 days of the filing of a complete the claim form, Board Staff and, when applicable, Franchise Tax Board ~~S~~staff, shall submit a statement in response to the claim. At the discretion of the Chief, of Board Proceedings ~~Division~~, extensions of time for the filing of a staff statement may be granted upon a showing of good cause if a written request is filed with the Chief, of Board Proceedings ~~Division~~, before the scheduled due date of the staff statement.

(~~de~~) Claimant Response. The staff statement(s) shall be mailed to the claimant, who shall be given the opportunity to respond within 60 days of service of the staff statement with additional written argument and/or documentation, including, but not limited to, declarations under penalty of perjury. At the discretion of the Chief, of Board Proceedings ~~Division~~, extension of time for the filing of a response may be granted upon a showing of good cause if the written request for extension is filed with the Chief, of Board Proceedings ~~Division~~, before the scheduled due date of the response. If the claimant submits new information or documentation in the response, Board Staff or Franchise Tax Board staff may be given an additional 30 days to respond to the new material.

Note: Authority: Section 15606(a), Government Code; Section 42882; Public Resources Code; Section 893, Public Utilities Code; and Sections 7051, 8251, 9251, 11651, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 7091, 8269, 9269, 11657, 21013, 30458.9, 32469, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330 and 60630, Revenue and Taxation Code.